

FAEGRE BAKER DANIELS

2017 Legislative Update #9

Indiana Society of Anesthesiologists



March 26, 2017

The final full week of committee hearings gets underway on Monday. Committee meetings are expected to dominate much of the upcoming week, as House and Senate panels put in long hours to wrap up work on bills passed by the other chamber. On Thursday, March 30, Republicans in the Senate Appropriations Committee will unveil their version of the state budget and school funding formula. Monday, April 3, is the final day for adoption of committee reports, and Thursday, April 6, is the deadline for passage of bills from the second chamber. The final two weeks will be devoted to conference committees.

Although by law the General Assembly has until April 29 to complete its work, legislative leaders are aiming for an April 21 adjournment date because many lawmakers will be ousted from their hotel rooms during the last week of April to make way for a firefighters' convention.

Highlights from last week:

- [HB 1273](#) (surprise billing): The Senate Insurance & Financial Institutions Committee stripped out language governing reimbursement to out-of-network providers and replaced it with provisions that beefed up the notice required by in-network providers. Under the bill as amended, an in-network provider who makes a referral is required to provide a covered individual with an electronic or paper copy of a notice stating that an out-of-network provider who is not bound by the terms of the covered individual's insurance may be called upon to render services during the course of the individual's treatment and that the individual may contact the health plan to receive a list of participating providers before receiving the services. Exemptions are carved out for referrals made for or in conjunction with an emergency medical condition, or for medically or psychologically necessary services rendered to an admitted patient in a hospital.

At the hearing, Sen. Crider offered an amendment on behalf of Riley Hospital that would have required insurers that have not entered into an agreement with Riley to include a statement with the insurer's list of participating providers notifying enrollees that Riley is not a participating provider. The amendment failed to muster enough votes to pass.

HB 1273 will move to the floor next week for a final vote. The surprise billing issue is expected to be studied by lawmakers over the summer and return in the 2018 session.

Following are summaries of bills of interest to ISA that are still alive at this point in session.

SCOPE OF PRACTICE

HB 1308 VARIOUS PROFESSIONAL LICENSING MATTERS (ZENT D) Among other things:

- Eliminates the certificate of registration for professional corporations requirement.
- Allows all boards under the authority of the professional licensing agency (agency) to impose sanctions on a licensee as a result of an administrative complaint filed by the attorney general after renewal or reinstatement of a license.
- Makes certain provisions concerning midwifery certification effective July 1, 2018.
- Requires the boards under the authority of the agency to expedite the issuance or renewal of licenses, certificates, registrations, or permits to military spouses. (Current law requires the boards to adopt rules to expedite the issuance or renewal of licenses, certificates, registrations, or permits to military spouses.)

Current Status: 3/28/17 – House bills on third reading

State Bill Page: [HB 1308](#)

HB 1337 TELEMEDICINE MATTERS (KIRCHHOFER C) Requires the office of Medicaid policy and planning (office) to reimburse a Medicaid provider for telemedicine services who meets certain requirements. Prohibits the office from setting any distance restrictions under Medicaid on telehealth services and telemedicine services. Requires reimbursement for telemedicine services under the healthy Indiana plan. Adds certain providers to the definition of "provider" for purposes of telemedicine services. Gives a telemedicine services provider discretion in contacting the patient's primary care provider if the telemedicine services provider has provided care to the patient at least two consecutive times through the use of telemedicine services. Removes a limitation on prescribing controlled substances through the use of telemedicine except for the prescribing of opioids. Allows the use of a partial agonist to treat or manage an opioid dependence.

Current Status: 3/29/2017 - Senate Health and Provider Services, **Time & Location:** 10:00 AM, Rm. 431

SB 51 IMMUNIZATIONS PROVIDED BY PHARMACISTS (GROOMS R) Adds the following immunizations to the list of immunizations that pharmacists may administer if certain conditions are met: (1) Measles, mumps, and rubella. (2) Varicella. (3) Hepatitis A. (4) Hepatitis B. (5) Haemophilus influenzae type b (Hib).

Current Status: 3/15/2017 - House Public Health, **Time & Location:** 3:30 PM, House Chamber

State Bill Page: [SB 51](#)

SB 63 COMMUNITY MENTAL HEALTH CENTER TELEMEDICINE PILOT (HEAD R) Establishes a two year community mental health center telemedicine pilot program (program) to be administered by the division of mental health and addiction (division). Provides that the purpose of the program is to provide mental health counseling and services to children through the use of telemedicine. Sets forth requirements for the program and for participation in the program. Requires the reporting of certain information. Allows a provider providing telemedicine services in the program to prescribe any prescription drug except for certain opioids for a patient that is within the provider's scope of practice for the treatment of the patient's mental health. Specifies that the provider may not prescribe an abortion inducing drug. Requires the division to submit a report to the general assembly concerning the

effectiveness of the program. Specifies that a provider is not required to have a prior established provider-patient relationship in order to provide telemedicine services in Indiana.

Current Status: 2/28/2017 - Referred to House Public Health

State Bill Page: [SB 63](#)

HEALTH INSURANCE

HB 1273 OUT OF NETWORK HEALTH CARE SERVICES (BAIRD J) Requires referring providers to furnish notice to patients that an out-of-network provider may be called upon to render services to patient during the course of treatment.

Current Status: 3/23/2017 – Amended and approved by Senate Insurance and Financial Institutions

State Bill Page: [HB 1273](#)

SB 73 ELECTRONIC AUTHORIZATION FOR PRESCRIPTION DRUGS (GROOMS R) Requires certain health plans to accept and respond to electronic prior authorization requests according to a particular electronic transaction standard.

Current Status: 3/21/2017 – Passed House 94-2; eligible for conference committee

State Bill Page: [SB 73](#)

SB 303 DIRECT PRIMARY CARE AGREEMENTS (KOCH E) Specifies that a direct primary care agreement is not insurance and a primary care provider or an employer of primary care provider that enters into a direct primary care agreement is not required to obtain an insurance certificate of authority. Sets forth requirements of a direct primary care agreement.

Current Status: 2/28/2017 - Referred to House Insurance

State Bill Page: [SB 303](#)

SB 549 HEALTH RECORD INFORMATION (SANDLIN J) Amends the definition of "abandoned" for purposes of protection of health records possessed by a health care provider or a former health care provider. Permits the attorney general to file an action against a health care provider or former health care provider to recover incurred costs related to abandoned records. Applies current law concerning data base security to a health care provider or former health care provider who is a data base owner currently exempt from the law if the data base owner does not have or implement a plan to safeguard personal information after ceasing to be a covered entity under the federal Health Insurance Portability and Accountability Act.

Current Status: 3/21/2017 – Passed House 95-0; eligible for conference committee

State Bill Page: [SB 549](#)

HB 1540 PHARMACY LAW (DAVISSON S)

- Allows the state health commissioner or a designated public health authority who is a licensed prescriber to issue a statewide standing order, prescription, or protocol that allows a pharmacist to administer or dispense: (1) certain immunizations; or (2) a smoking cessation product. Requires that the standing order, prescription, or protocol be posted on the Internet web site of the board of pharmacy (board).
- Allows the board to adopt emergency rules concerning pharmacies that perform compounding.
- Removes the requirement that a prescriber be notified when there is a change in the

quantity filled of certain prescriptions.

- Allows a pharmacist to administer pneumonia immunizations to individuals who are at least 50 years of age.
- Authorizes a pharmacist to administer immunizations under a standing order, prescription, or protocol of the state health commissioner.
- Establishes a registration for pharmacy remote dispensing facilities. Sets forth requirements for the registration.
- Makes various changes to the laws concerning drug regimens and the use of protocols.
- Requires that a health insurance policy and a health maintenance organization contract that provides coverage for prescription medications must provide for synchronized refill schedule coordination for chronic prescription medications.

Current Status: 3/27/2017 – House bills on second reading

State Bill Page: [HB 1540](#)

OPIOIDS

SB 151 INFORMATION IN INSPECT PRESCRIPTION DRUG DATA BASE (MERRITT J)

- Requires the ephedrine, pseudoephedrine, and controlled substance prescription monitoring program to include an entry for a dispenser to indicate, when applicable, if a patient has entered into a pain management contract with a designated practitioner.
- Allows the management performance hub and the state epidemiologist to obtain information from the INSPECT program. Requires that the information provided to the management performance hub not include personally identifying information.
- Requires the professional licensing agency (agency) to establish a workgroup consisting of emergency medical technicians, registered nurses, paramedics, pharmacists, physicians, law enforcement officers and physician assistants for the purpose of evaluating the cost and feasibility of cataloging: (1) each administration of an overdose intervention drug by an emergency medical services provider; and (2) data related to certain controlled substance investigations by law enforcement; in the INSPECT data base. Requires the agency to provide: (1) statutory recommendations; and (2) a written report; to the legislative council not later than December 1, 2017.

Current Status: 3/27/2017 - Senate Bills on Second Reading

State Bill Page: [SB 151](#)

SB 226 PRESCRIBING AND DISPENSING OF OPIOIDS (MERRITT J)

- Limits the amount of an opioid prescription a prescriber may issue for: (1) an adult who is being prescribed an opioid for the first time; and (2) a child; unless the prescription is for the treatment of specified conditions or circumstances. Requires documentation in the use of certain exemptions.
- Requires a prescriber to issue a prescription for an opioid in a lesser amount if requested by specified individuals and to document the request.
- Requires a pharmacist, upon the request of a specified individual, to partially fill the opioid prescription in compliance with federal law. Requires the pharmacist to

document that the opioid prescription was partially filled.

- Requires the medical licensing board, in consultation with specified persons, to adopt emergency rules and rules concerning conditions that will be exempt from the prescription limitations.

Current Status: 3/21/2017 – Passed House 97-0; awaiting governor's signature

State Bill Page: [SB 226](#)

SB 243 SUBSTANCE ABUSE PROGRAMS (CRIDER M)

- Subject to the approval of the Indiana commission to combat drug abuse (commission), establishes the physician medication assisted treatment training reimbursement pilot program (pilot program) to reimburse qualified physicians who undergo certain medication assisted treatment training, for the purpose of increasing the number of physicians in Indiana allowed under the federal Drug Addiction Treatment Act of 2000 to prescribe certain controlled substances to treat opioid dependency in settings other than an opioid treatment program. Establishes requirements for participation in the pilot program.
- Subject to the approval of the commission, establishes the maternal neonatal opioid addiction project (project) within the division of mental health and addiction (division). Allows the division to implement the project and award one grant to a health care system application that meets specified requirements for participation in the project.

Current Status: 3/27/2017 – Senate bills on second reading

State Bill Page: [SB 243](#)

SB 408 INSPECT PROGRAM (HOUCHIN E)

- Requires, as part of the renewal of a license, certain practitioners to certify that the practitioner has access to the INSPECT data base and allows for discipline for false certification.
- Provides that, to the extent considered appropriate by the state board of pharmacy (board), the INSPECT data base must be interoperable with other similar registries operated by federal and state governments.
- Adds an investigator for the state Medicaid fraud control unit to the list of persons who can receive certain confidential INSPECT program information.
- Requires the office of the secretary of family and social services, in collaboration with the Indiana board of pharmacy, to apply for and distribute grants for the integration of the INSPECT data base and electronic health records.
- Requires the board to report, before December 1, 2017, to the legislative council concerning the integration of the INSPECT program data base with electronic health records and specifies requirements for the report.
- Requires, beginning July 1, 2018, a practitioner to obtain information about a patient from the INSPECT data base before prescribing ephedrine, pseudoephedrine, or a controlled substance to the patient and sets forth exceptions.
- Requires the board to establish procedures for a patient or a patient's authorized representative to obtain the patient's INSPECT program report. (Current law allows a patient to access a report that has been included in the patient's medical file by a practitioner.) Provides that if a patient or patient's authorized representative disputes

information in the patient's INSPECT report, the board shall investigate the claim and promptly revise any inaccurate information.

- Requires the board to seek and apply for grants and other money from federal agencies and other entities for the controlled substances data fund.

Current Status: 3/15/2017 - House Public Health, **Time & Location:** 3:30 PM, House Chamber

State Bill Page: [SB 408](#)

MISCELLANEOUS

HB 1578 TOBACCO USE (KIRCHHOFER C) Repeals employment protections for individuals who smoke cigarettes or use other tobacco products.

Current Status: 3/1/2017 - Referred to Senate Commerce and Technology

State Bill Page: [HB 1578](#)

SB 15 CANNABIDIOL FOR THE TREATMENT OF EPILEPSY (TOMES J) Defines cannabidiol and establishes a cannabidiol registry for certain physicians, nurses, individuals, and caregivers for the use of cannabidiol in the treatment of a person with intractable epilepsy. Establishes a pilot study registry for physicians who want to study the use of cannabidiol in the treatment of intractable epilepsy. Requires the state department of health (state department) to develop and maintain both registries. Provides civil, criminal, and administrative immunity for physicians and nurses in the use of cannabidiol in the treatment of intractable epilepsy if certain requirements are met. Exempts physicians, caregivers, nurses and individuals from criminal penalties for possession or use of cannabidiol under certain conditions. Permits a pharmacy to dispense cannabidiol subject to specific requirements. Encourages state educational institutions to research the use of cannabidiol in the treatment of other intractable diseases.

Current Status: 2/28/2017 - Referred to House Courts and Criminal Code

State Bill Page: [SB 15](#)